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8 Attorneys for Complainant

9 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 1H-2008-513

13 SARA ROSE HOFFMAN  
129 Aliento, Suite 129  
14 Rancho Santa Margarita, CA 92688

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Executive Officer of the Respiratory Care Board of California.  
21 2. On or about August 12, 2008, the Respiratory Care Board of California  
22 (Board) received an application for a Respiratory Care Practitioner License from Sara Rose  
23 Hoffman (Respondent). On or about August 8, 2008, Respondent certified under penalty of  
24 perjury to the truthfulness of all statements, answers, and representations in the application. The  
25 Board denied the application on or about December 23, 2008.

26 JURISDICTION

27 3. This Statement of Issues is brought before the Board, under the authority  
28 of the following laws. All section references are to the Business and Professions Code (Code)

1 unless otherwise indicated.

2           4.       Section 3710 of the Code states, in pertinent part, that “The Respiratory  
3 Care Board of California, hereafter referred to as the board, shall enforce and administer this  
4 chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5           5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7           6.       Section 3750 of the Code states:

8           “The board may order the denial, suspension or revocation of, or the  
9 imposition of probationary conditions upon, a license issued under this chapter,  
10 for any of the following causes:

11           “...

12           “(d) Conviction of a crime that substantially relates to the qualifications,  
13 functions, or duties of a respiratory care practitioner. The record of conviction or  
14 a certified copy thereof shall be conclusive evidence of the conviction.

15           “...”

16           7.       Section 3750.5 of the Code states:

17           “In addition to any other grounds specified in this chapter, the board may deny,  
18 suspend, or revoke the license of any applicant or licenseholder who has done any of the  
19 following:

20           “(a) Obtained or possessed in violation of law, or except as directed by a licensed  
21 physician and surgeon, dentist, or podiatrist administered to himself or herself, or  
22 furnished or administered to another, any controlled substance as defined in Division 10  
23 (commencing with section 11000) of the Health and Safety Code, or any dangerous drug  
24 as defined in Article 7 (commencing with Section 4210) of Chapter 9 of this Code.

25           “...”

26           8.       Section 3732 of the Code states:

27           “(a) The board shall investigate an applicant for a license, before a license  
28 is issued, in order to determine whether or not the applicant has the qualifications

1 required by this chapter.

2 “(b) The board may deny an application, or may order the issuance  
3 of a license with terms and conditions, for any of the causes specified in  
4 this chapter for suspension or revocation of a license, including, but not  
5 limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6,  
6 3755, 3757, 3760, and 3761.”

7 9. Section 3752 of the Code states,

8 “A plea or verdict of guilty or a conviction following a plea of nolo  
9 contendere made to a charge of any offense which substantially relates to  
10 the qualifications, functions, or duties of a respiratory care practitioner is  
11 deemed to be a conviction within the meaning of this article. The board  
12 shall order the license suspended or revoked, or may decline to issue a  
13 license, when the time for appeal has elapsed, or the judgment of  
14 conviction has been affirmed on appeal or when an order granting  
15 probation is made suspending the imposition of sentence, irrespective of a  
16 subsequent order under Section 1203.4 of the Penal Code allowing the  
17 person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
18 or setting aside the verdict of guilty, or dismissing the accusation,  
19 information, or indictment.”

20 10. Section 3754 of the Code states: “The board may deny an  
21 application for, or issue with terms and conditions, or suspend or revoke, or impose  
22 probationary conditions upon, a license in any decision made after a hearing, as provided  
23 in Section 3753.”

24 11. California Code of Regulations, title 16, section 1399.370, states, in  
25 pertinent part:

26 “For the purposes of denial, suspension, or revocation of a license, a  
27 crime or act shall be considered to be substantially related to the  
28 qualifications, functions or duties of a respiratory care practitioner, if it

1 evidences present or potential unfitness of a licensee to perform the  
2 functions authorized by his or her license or in a manner inconsistent with  
3 the public health, safety, or welfare. Such crimes or acts include but are not  
4 limited to those involving the following:

5 (a) Violating or attempting to violate, directly or indirectly, or  
6 assisting or abetting the violation of or conspiring to violation any  
7 provision or term of the Act.  
8 “...”

#### 9 COST RECOVERY

10 12. Section 3753.5, subdivision (a) of the Code states:

11 “In any order issued in resolution of a disciplinary proceeding  
12 before the board, the board or the administrative law judge may direct any  
13 practitioner or applicant found to have committed a violation or violations  
14 of law to pay to the board a sum not to exceed the costs of the investigation  
15 and prosecution of the case.”

16 13. Section 3753.7 of the Code states:

17 “For purposes of the Respiratory Care Practice Act, costs of  
18 prosecution shall include attorney general or other prosecuting attorney  
19 fees, expert witness fees, and other administrative, filing, and service fees.”

20 14. Section 3753.1 of the Code states:

21 “(a) An administrative disciplinary decision imposing terms of  
22 probation may include, among other things, a requirement that the  
23 licensee-probationer pay the monetary costs associated with monitoring the  
24 probation.

25 “...”

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1 Circuit Court, County of Warren, Cause Number 86C01-0605-FD-40, with  
2 possession of marijuana in violation of Indiana Code section 35-48-4-11(1), a  
3 misdemeanor.

4 (g) On or about October 25, 2006, Respondent entered a guilty plea to a  
5 violation of Indiana Code section 35-48-4-11(1) [possession of marijuana], a  
6 misdemeanor.

7 (h) On or about October 25, 2006, Respondent was sentenced to  
8 probation for a term of one (1) year with terms and conditions, and a fine and fees  
9 in the amount of four hundred thirty dollars (\$430.00).

10 SECOND CAUSE FOR DENIAL OF LICENSE

11 (Obtained or Possessed any Controlled Substance)

12 16. Respondent's application is further subject to denial under section  
13 3750.5, subdivision (a), in that Respondent obtained and possessed a controlled substance  
14 in violation of law, as more particularly alleged hereinafter: Paragraph 15, 15e, 15f, 15g,  
15 and 15h, above, are hereby incorporated by reference and realleged as if fully set forth  
16 herein.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters  
19 herein alleged, and that following the hearing, the Board issue a decision:

20 1. Denying the application of Respondent Sara Rose Hoffman for a  
21 Respiratory Care Practitioner License;

22 2. Directing Respondent Sara Rose Hoffman to pay the Respiratory  
23 Care Board of California the costs of the investigation and enforcement of this case, and if  
24 placed on probation, the costs of probation monitoring; and

25 3. Taking such other and further action as deemed necessary and  
26 proper.

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1 DATED: February 4, 2009

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Original signed by Liane Zimmerman for:

STEPHANIE NUNEZ

Executive Officer

Respiratory Care Board of California

State of California

Complainant